

# HOUSE BILL REPORT

## SSB 6385

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**As Reported by House Committee On:**  
Finance

**Title:** An act relating to providing excise tax relief by modifying due dates and eliminating an assessment penalty.

**Brief Description:** Providing administrative excise tax relief for taxpayers.

**Brief History:**

**Committee Activity:**

Finance: 2/22/06, 2/27/06 [DPA].

**Brief Summary of Substitute Bill**  
**(As Amended by House Committee)**

- Requires payment of state excise taxes by the 25th day of the month instead of the 20th.
- Eliminates a 5 percent penalty for a billing of unpaid state excise taxes, unless the amount paid is less than 80 percent of the tax due and the amount of underpayment is at least \$1,000.
- Modifies electronic funds transfer procedures for payment of state excise taxes.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** Do pass as amended. Signed by 9 members: Representatives McIntire, Chair; Hunter, Vice Chair; Orcutt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Ahern, Ericks, Hasegawa, Santos and Shabro.

**Staff:** Bob Longman (786-7139).

**Background:**

The Department of Revenue (DOR) collects the state's major excise taxes, such as the retail sales tax and the business and occupation (B&O) tax. For large businesses, excise taxes must be paid monthly. In 2003, the Legislature changed the due date for monthly tax returns from the 25th to the 20th day of the following month. The DOR is authorized by statute to allow smaller businesses to report taxes quarterly or annually. Quarterly and annual returns are due by the end of the month following the end of the reporting period.

Penalties are imposed if taxes are not paid on time. In 2003, the Legislature increased penalties for late excise taxes. In addition, a new penalty of 5 percent was applied to any billing or assessment of unpaid tax by the DOR. If taxes remain unpaid, the penalties increase over time.

In 1990, the Legislature required taxpayers with an annual tax liability of more than \$240,000 to make payment of their excise tax returns using electronic funds transfer (EFT). In 1999, the Legislature allowed any taxpayer to make payment using electronic funds. An EFT payment must be completed so that the state receives the collectible funds on or before the next banking day after the due date. There are two methods of paying taxes by EFT: Automated Clearinghouse (ACH) debit and ACH credit.

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**Summary of Amended Bill:**

Taxpayers filing monthly excise tax returns are required to report and pay taxes by the 25th of the month rather than the 20th. This change applies to tax returns due after July 31, 2006.

The 5 percent penalty for a billing of unpaid state excise taxes applies only if there is a "substantial underpayment." A substantial underpayment occurs when the payment is less than 80 percent of the tax due and the amount of underpayment is at least \$1,000. This change applies to tax assessments originally issued after June 30, 2006.

If a taxpayer uses the ACH debit procedure for an EFT, the payment will be deemed to have been received on the due date if the taxpayer initiates the transfer on or before 11:59 p.m. Pacific time on the due date with a payment effective date on or before the next banking day after the due date. A legislative findings section recites the DOR's understanding of the ACH procedure. These EFT provisions apply to payments due after July 31, 2006.

**Amended Bill Compared to Substitute Bill:**

The amended bill restricts the 5 percent penalty to cases of substantial underpayment, rather than providing for a waiver of the penalty. The substitute bill allowed a waiver of the penalty if the business has timely filed for the 12 months preceding the deficiency, the amount of underpaid tax is less than 20 percent of the tax due, and the assessment is not for more than a 12-month period.

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**Appropriation:** None.

**Fiscal Note:** Available on substitute bill.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of session in which the bill is passed, except sections 1 through 4, relating to due dates, which take effect August 1, 2006, and sections 6 and 7, relating to penalties, which take effect July 1, 2006.

**Testimony For:** The 5 percent penalty for underpayments and the early tax due date are unfair and a burden on businesses, particularly small businesses. We support the substitute Senate bill which allows a waiver of the penalty for some businesses, but the House bill is better because it completely eliminates the penalty. The substitute Senate bill would result in more administrative complexity in order to process waiver requests and determine eligibility for waivers. Eliminating the penalty when the underpayment is less than 20 percent would be better than the substitute Senate bill, but not as good as the House bill.

**Testimony Against:** None.

**Persons Testifying:** Cindi Holmstrom, Department of Revenue; Amber Carter, Association of Washington Business; Carolyn Logue, National Federation of Independent Business; and Gary Smith, Independent Business Association.

**Persons Signed In To Testify But Not Testifying:** None.